

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re: Consumer Vehicle Driving Data
Tracking Collection

Case No. 1:24-md-03115-TWT

**MEMORANDUM IN SUPPORT OF JOINT MOTION TO STAY
SCHEDULING ORDER DEADLINES**

Defendants LexisNexis Risk Solutions Inc. (“LNRs”), General Motors, LLC (“GM”), and OnStar, LLC (“OnStar”) (collectively, the “Defendants”) and Plaintiff Romeo Chicco (“Chicco”) (collectively, the “Parties”) file this Motion to Stay the Scheduling Order deadlines from the transferred case captioned *Chicco v. General Motors LLC, et al.*, 9:24-cv-80281-DMM (S.D. Fl.) (“*Chicco*”). In support of this Motion, the Parties state as follows:

A. Procedural History in *Chicco*.

1. On March 13, 2024, Chicco filed his complaint in the United States District Court for the Southern District of Florida.
2. On April 15, 2024, Defendants filed an unopposed motion to stay the *Chicco* case pending a ruling from the Judicial Panel on Multidistrict Litigation (“JPML”). (*Chicco* Dkt. No. 17.)

3. On April 18, 2024, the *Chicco* Court denied the motion to stay, finding that “[g]ranting a stay would indefinitely prolong this proceeding, as there is no guarantee how or when the [JPML] will rule.” (*Chicco* Dkt. No. 19.)

4. On May 3, 2024, the parties filed a joint motion for reconsideration on the motion to stay. (*Chicco* Dkt. No. 28.)

5. On May 7, 2024, the Court denied the motion for reconsideration, finding that “a pending hearing before the JPML [does not] constitute an exceptional circumstance warranting a continuance.” (*Chicco* Dkt. No. 30).

6. That same day, the Court entered a pretrial scheduling order which included, among other deadlines, a May 30, 2024 deadline for Chicco to file his motion for class certification and a June 13, 2024 deadline for Chicco to serve his expert witness reports. (*Chicco* Dkt. No. 32.)

7. The Parties have not conducted any discovery in the *Chicco* case.

8. Nonetheless, on May 30, 2024, Chicco filed his motion for class certification. (*Chicco* Dkt. No. 35.) Chicco notes in his motion that it is a “placeholder” motion to “procedurally preserve Plaintiff’s rights to pursue class certification.” Chicco’s motion for class certification also states that he “desires to re-file a motion for class certification with sufficient discovery.”

9. Pursuant to Southern District of Florida Local Rule 7.1, Defendants’ briefs in opposition to Chicco’s motion for class certification are due on or before

June 13, 2024. Chicco's reply brief in support of the motion is due on or before June 20, 2024.

B. Procedural History of the Present MDL.

10. On June 7, 2024, the JPML entered a Transfer Order concerning seven cases pending in five districts, including *Chicco*, transferring those cases to the Northern District of Georgia and assigning those cases to the Honorable Thomas W. Thrash Jr. for coordinated or consolidated pretrial proceedings.

11. The Certified Transfer Order transferring the *Chicco* case to this Court and closing the case in the Southern District of Florida was entered on June 7, 2024. (*Chicco* Dkt. No. 37.)

12. Once all the cases are transferred, the Parties anticipate this Court will enter a Case Management Order, which will, among other things, set a date for an initial conference and may stay all other pretrial deadlines in the transferred cases.

C. The Court Should Stay the Pending Deadlines in *Chicco*.

13. Although the *Chicco* case has been closed in the Southern District of Florida, out of an abundance of caution and because this Court has not yet expressly stayed all pending transferor court deadlines, the Parties respectfully request that the *Chicco* Scheduling Order deadlines – including the class certification briefing deadlines – be stayed.

14. A district court has inherent power to control its docket and the course of particular litigation—taking into consideration the economy of time and effort “for itself, for counsel, and for litigants.” *Fowler v. Hamilton Medical Center, Inc.*, No. 4:08-cv-0055-HLM, 2008 U.S. Dist. LEXIS 129860, at *4 (N.D. Ga. May 7, 2008) (citation omitted). This Court – as the transferee court – also has the authority to modify or vacate prior orders of the transferor court. *See* 17 Moore’s Federal Practice – Civil § 112.07(d) (2024).

15. When considering a motion to stay, courts in this District consider: (1) potential prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is not stayed; and (3) the judicial resources that would be saved by avoiding duplicative litigation if the cases are in fact consolidated. *Fowler*, 2008 U.S. Dist. LEXIS 129860, at *5 (citation omitted). Each of these factors counsels in favor of staying the *Chicco* deadlines.

16. As Chicco notes in his motion for class certification, the motion was premature because the parties had not yet conducted any discovery. But given the *Chicco* Court’s denial of the parties’ requested stay of deadlines, Chicco had to file his motion by the applicable deadline.

17. The Parties anticipate this Court will set a new case schedule to govern this MDL.

18. Consequently, briefing Chicco's motion for class certification now and proceeding with the other discovery-related deadlines set forth in the *Chicco* Scheduling Order would be a waste of both the Parties' and Court's time and resources.

For the foregoing reasons, the Parties respectfully request that the Court stay all Scheduling Order deadlines from the *Chicco* case.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1D, the undersigned certifies that the foregoing complies with the font and point selections permitted by L.R. 5.1B. This Response was prepared on a computer using the Times New Roman font (14 point).

Respectfully submitted, this 12th day of June 2024.

/s/ Cindy D. Hanson
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